

Proposed regulation(s)	Subject Matter	Source (<u>Authority</u> is underlined)	Notes
Part 4. Article 1.	Application, Definitions, and Jurisdiction		
Section 4010	Application of part 4	<u>Government Code (Gov. Code) § 15606; Revenue and Taxation Code (Rev. & Tax. Code) §§ 18533, 19045, 19047, 19048, 19104, 19324, 19331, 19333, 19334, 19335, and 20645.</u>	Derived from California Code of Regulations, title 18, (Regulation) § 5010.
Section 4011	Definitions applicable to part 4	Regulation §§ 5010 and 5070	Adopts definitions contained in part 5, proposed regulation section 5002.
Section 4012	Jurisdiction	<u>California Constitution, Art. III, § 3.5; Rev. & Tax. Code, § 18533, 19045, 19047, 19048, 19104, 19324, 19331, 19333, 19334, 19335, 19570 and 20645;</u> <i>Flickenger v. Industrial Accident Commission</i> (1919) 181 Cal. 425; <i>Appeals of Fred R. Dauberger, et al.</i> , 82-SBE-082, Mar. 31, 1982; <i>Appeal of Aimor Corporation</i> , 83-SBE-221, Oct. 26, 1983.	New regulatory language that consolidates jurisdictional rules from statutes, case law, and administrative law into one place.
Article 2.	How to file an appeal from the Franchise Tax Board		
Section 4020	Basic appeal requirements / contents of an appeal	<u>Rev. & Tax. Code, §§ 19045, 19046, 19324, 19332, and 20645;</u> BOE Publication 81.	Incorporates provisions from existing Regulation § 5012 and Publication 81.
Section 4021	Time for filing an appeal	<u>Rev. & Tax. Code, §§ 18533,</u>	Incorporates, and expands

		<u>19045, 19104, 19324, 19331, and 20645.</u>	upon, the provisions from existing Regulation §5011.
Section 4022	Accepting or rejecting an appeal	<u>Gov Code, § 15606; Rev. & Tax. Code, §§ 18533, 19045, 19104, 19324, 19331, and 20645; BOE Publication 81.</u>	New regulatory language designed to streamline the appeals process and reduce waste of administrative resources by resolving jurisdictional issues before briefing begins.
Section 4023	Perfecting an appeal	<u>Gov. Code, § 15606; BOE Publication 81.</u>	This will give a taxpayer time to provide additional information when the appeal is incomplete. Incorporates provisions from existing Regulation § 5075.1, as well as internal procedures.
Article 3.	Briefing Schedules and Procedures		
Section 4030	General requirements	<u>Gov. Code, § 15606; Rev. & Tax. Code, §§ 19047 & 19333; BOE Publication 81.</u>	Sets forth requirements applicable to all appeals and briefing procedures. Incorporates provisions from existing Regulation §§ 5075 and 5075.1.
Section 4031	General briefing schedule	<u>Gov. Code, § 15606; Rev. & Tax. Code, §§ 19047 & 19333; BOE Publication 81.</u>	Sets forth a default briefing schedule for use when other more specific schedules do not apply. Derived from existing Regulation § 5075.1, with some modification and more detail.

Section 4032	Briefing schedule for innocent spouse appeals	<u>Gov. Code, § 15606; Rev. & Tax. Code, §§ 18533, 19047 & 19333.</u>	New regulatory language that sets forth a specific briefing schedule for innocent spouse appeals. Gives the non-appealing spouse material participation in the appeal, as required by Rev. & Tax. Code, § 18533. Incorporates and streamlines existing internal procedures.
Section 4033	Simplified briefing schedule for small tax appeals	<u>Gov. Code, § 15606; Rev. & Tax. Code, §§ 19047 & 19333.</u>	New regulatory language that allows taxpayers to elect a simplified, expedited briefing schedule when the amount at issue is less than \$5,000.
Section 4034	Briefing schedule for Homeowner and Renter Assistance Appeals	<u>Gov. Code, § 15606; Rev. & Tax. Code, §§ 19047 & 19333.</u>	New regulatory language that sets forth a simplified, expedited briefing schedule for appeals involving the Homeowner and Renter Property Tax Assistance Law.
Section 4035	Discretionary supplemental briefing	<u>Gov. Code, § 15606; Rev. & Tax. Code, §§ 19047 & 19333.</u>	Derived from existing Regulation § 5075.1(e), with modification and more detail.
Article 4.	Requesting and Scheduling Oral Hearings		
Section 4040	Right to oral hearing	<u>Gov. Code, § 15606; Rev. & Tax. Code, §§ 19047 & 19333; BOE Publication 81.</u>	Provides for right to oral hearing upon written request, except when the small tax appeals briefing procedure is

			elected. Derived from existing Regulation § 5076.1.
Section 4041	Submission for decision without oral hearing	<u>Gov. Code, § 15606; Rev. & Tax. Code, §§ 19047 & 19333; BOE Publication 81.</u>	Provides that a written decision shall be issued when no oral hearing is requested. Derived from existing Regulation § 5076.1.
Section 4042	Appeals review; scheduling the oral hearing	<u>Gov. Code, § 15606; Rev. & Tax. Code, §§ 19047 & 19333.</u>	New regulatory language that allows the Appeals Division to review the file prior to preparing the hearing summary and to request additional briefing to resolve outstanding issues. Intended to provide better quality hearing summaries and more efficient, focused Board hearings.
Section 4043	Hearing summaries	<u>Gov. Code, § 15606; Rev. & Tax. Code, §§ 19047 & 19333.</u>	New regulatory language that describes the contents of hearing summaries. Incorporates existing internal procedures.
Article 5.	Decisions, Opinions, and Frivolous Appeal Penalties		
Section 4050	Letter Decisions	<u>Gov. Code, § 15606; Rev. & Tax. Code, §§ 19047 & 19333; <i>Nast v. State Board of Equalization</i> (1996) 46 Cal.App.4th 343.</u>	New regulatory language that describes the contents of letter decisions. Incorporates existing internal procedures and clarifies that letter decisions may not be cited as

			precedent.
Section 4051	Summary Decisions	<u>Gov. Code, § 15606; Rev. & Tax. Code, §§ 19047 & 19333.</u>	New regulatory language that describes the contents of summary decisions. Incorporates existing internal procedures and clarifies that summary decisions may not be cited as precedent.
Section 4052	Formal Opinions	<u>Gov. Code, § 15606; Rev. & Tax. Code, §§ 19047 & 19333;</u> California Rule of Court 976.	New regulatory language describes the contents of formal opinions. Sets forth criteria for the issuance of formal opinions. Incorporates existing internal procedures and clarifies that formal opinions may be cited as precedent.
Section 4053	Dissenting Opinions	<u>Gov. Code, § 15606; Rev. & Tax. Code, §§ 19047 & 19333.</u>	New regulatory language that gives dissenting Board Members the ability to write and publish their rationale for opposing the adoption of a formal opinion.
Section 4054	Frivolous Appeal Penalty	<u>Rev. & Tax. Code, § 19714;</u> <i>Appeal of Walter R. Bailey</i> , 92-SBE-001, Feb. 20, 1992; <i>Appeal of Alfons Castillo</i> , 92-SBE-020, July 30, 1992.	New regulatory language that sets forth criteria for the imposition of the frivolous appeal penalty. Incorporates existing internal procedures.
Article 6.	Petitions for Rehearing and Rehearings		
Section 4060	Finality of Decision	<u>Gov. Code, § 15606; Rev. & Tax.</u>	Provides that the finality of a

		<u>Code, §§ 19048 & 19334.</u>	decision is delayed by a petition for rehearing. New regulatory language allows the Board, in limited circumstances, to delay the finality of a decision by scheduling and taking an expunging vote.
Section 4061	Petitions for Rehearing	<u>Gov. Code, § 15606; Rev. & Tax. Code, §§ 19048 & 19334; BOE Publication 81.</u>	Derived from existing Regulation § 5082.1, with modification and more detail.
Section 4062	Decisions on Petitions for Rehearing	<u>Gov. Code, § 15606; Rev. & Tax. Code, §§ 19048 & 19334; Code of Civil Procedure § 657; <i>Appeal of Wilson Development</i>, 94-SBE-007, Oct. 5, 1994.</u>	New regulatory language that describes the contents of decisions on petitions for rehearing by incorporating existing internal procedures. Sets forth criteria for the granting or denial of a rehearing.
Section 4063	Rehearings	<u>Gov. Code, § 15606; Rev. & Tax. Code, §§ 19048 & 19334; BOE Publication 81.</u>	New regulatory language that allows flexibility in determining the briefing schedule on rehearing. Incorporates existing internal procedures. Provides for the finality of the decision after the rehearing.